

Adulteration of the product was alleged in the information for the reason that a substance, to wit, milk, had been substituted wholly or in large part for the article cream. Misbranding was alleged for the reason that said product was a mixture of cream and milk and was offered for sale under the distinctive name of another article, to wit, cream, whereas said product was not cream.

On May 25, 1914, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$20 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3423. Alleged misbranding of arrowroot biscuit. U. S. v. Empire Biscuit Co. Tried to the court and a jury. Verdict of not guilty by direction of the court. (F. & D. No. 4898. I. S. No. 37653-e.)

At the March term of the District Court of the United States for the Southern District of New York the United States attorney for the said district, acting upon a report by the Secretary of Agriculture, filed in the district court aforesaid an information against the Empire Biscuit Co., a corporation, New York, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on July 18, 1912, from the State of New York into the State of Massachusetts, of a quantity of arrowroot biscuit which were charged to have been misbranded. The product was labeled: "Empire Biscuit Co. Arrowroot. 28-30-32 Westerly Avenue. High Class Biscuit. Brooklyn, N. Y. 15½ lbs." Examination of a sample of the product by the Bureau of Chemistry of this department showed that it was composed mostly of wheat starch and a small amount of corn, and that not more than 1 per cent of arrowroot was present.

Misbranding of the product was alleged in the information for the reason that the product was misbranded and labeled so as to deceive and mislead the purchaser thereof, in that the words on the label thereof, "Arrowroot—High Class Biscuit," regarding the said article and the ingredients and substances contained therein, were false and misleading, in that said label would indicate that said article consisted of biscuits containing a sufficient quantity of arrowroot to give said biscuits arrowroot characteristics, whereas, in truth and in fact, said biscuits consisted for the most part of wheat starch and corn, and a very small amount of arrowroot, the said amount being negligible and not sufficient to impart to said biscuits any of the characteristics of arrowroot.

On June 4, 1914, the case having come on for trial before the court and a jury, after the submission of evidence by the Government the defendant company rested its case and moved the court to dismiss. A verdict of not guilty was thereupon directed as follows by the court (Mayer, J.):

"The stenographer may note that the verdict about to be directed is not to be taken as a precedent on the question of the percentage of arrowroot. But on the evidence in this case there is nothing which will, in the court's opinion, sustain a verdict.

"The court directs a verdict in favor of the defendant, and the clerk will take the verdict."

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *September 24, 1914.*

3424. Adulteration and misbranding of cream. U. S. v. Albert W. Anderson. Plea of guilty. Fine, \$20 and costs. (F. & D. No. 4970. I. S. No. 36883-e.)

On December 3, 1913, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against